

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. Box 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

JACK B. BLUMENFELD
302 351 9291
302 425 3012 FAX
jblumenfeld@mnat.com

February 19, 2008

The Honorable Gregory M. Sleet
United States District Court
For the District of Delaware
844 North King Street
Wilmington, DE 19801

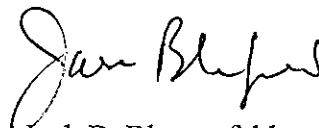
VIA ELECTRONIC FILING

Re: *Santarus, Inc. et al. v. Par Pharmaceutical, Inc.*
C.A. No. 07-551 (GMS) and 07-827 (GMS)

Dear Chief Judge Sleet:

Attached is the parties' Proposed Scheduling Order. If it meets with the Court's approval, we request that it be entered.

Respectfully,



Jack B. Blumenfeld

JBB/nlm
Enclosure

cc: Clerk of Court (Via Hand Delivery; w/ encl.)
Frederick L. Cottrell, Esq. (Via E-mail; w/encl.)
Daniel G. Brown, Esq. (Via E-mail; w/encl.)
Gary N. Frischling, Esq. (Via E-mail; w/encl.)
Jamison E. Lynch, Esq. (Via E-mail; w/encl.)

1599229

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANTARUS, INC., a Delaware corporation,
and THE CURATORS OF THE
UNIVERSITY OF MISSOURI, a public
corporation and body politic of the State of
Missouri,

Plaintiffs,

v.

PAR PHARMACEUTICAL, INC., a Delaware
corporation,

Defendant.

C.A. No. 07-551 (GMS)

SANTARUS, INC., a Delaware corporation,
and THE CURATORS OF THE
UNIVERSITY OF MISSOURI, a public
corporation and body politic of the State of
Missouri,

Plaintiffs,

v.

PAR PHARMACEUTICAL, INC., a Delaware
corporation,

Defendant.

C.A. No. 07-827 (GMS)

SCHEDULING ORDER

This ____ day of February 2008, the Court having conducted a Rule 16 Scheduling Conference pursuant to Local Rule 16.2(b) on February 11, 2008, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS HEREBY ORDERED that:

1. **Consolidation.** Civil Action No. 07-551-GMS and Civil Action No. 07-827-GMS are consolidated for all purposes, and all filings shall be made in C.A. 07-551-GMS.
2. **Rule 26(a) Initial Disclosures.** Unless otherwise agreed to by the parties, they shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) on or before 15 days after the entry of this Order.
3. **Joinder of other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before March 30, 2008.
4. **Markman Claim Construction Hearing.** A *Markman* claim construction hearing shall be held on September 8, 2008 at 9:30 a.m. The *Markman* hearing is scheduled for a total of 3 hours with each side having 1 ½ hours. The parties shall meet and confer regarding narrowing and reducing the number of claim construction issues. On or before June 26, 2008, the parties shall submit a Final Joint Claim Chart which shall include citations to intrinsic evidence. The plaintiff shall submit to the court a Joint Appendix of Intrinsic and Extrinsic Evidence (the “Joint Appendix”) containing all intrinsic and extrinsic evidence relied upon in the claim construction briefing. A sample table of contents of the Joint Appendix can be located on this court’s website at www.ded.uscourts.gov. The Joint Appendix shall be filed on August 13, 2008. The parties shall file opening claim construction briefs on July 10, 2008, and answering claim construction briefs on August 8, 2008.
5. **Discovery.**
 - a. **Fact Discovery.** The parties shall substantially complete the production of documents by July 11, 2008. All fact discovery in this case shall be initiated so that it will be completed on or before November 14, 2008.

b. **Expert Discovery.** Opening expert reports on which a party as the burden of proof shall be served by December 15, 2008. Responsive expert reports shall be served by January 23, 2009. Rebuttal expert reports shall be served by February 27, 2009. Expert Discovery in this case shall be initiated so that it will be completed on or before March 31, 2009.

c. **Discovery and Scheduling Matters.** Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **joint, non-argumentative** letter agenda not to exceed two (2) pages outlining the issue(s) in dispute. A sample letter can be located on this court's website at www.ded.uscourts.gov. After the parties have had three (3) discovery teleconferences, they will be required to file a joint letter showing good cause why the court should permit a fourth discovery teleconference. Should the court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

6. **Confidential Information and Papers filed under Seal.** Should counsel find it will be necessary to apply to the court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within ten (10) days from the date of this order.

When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

If after making a diligent effort the parties are unable to agree on the contents of the joint proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 5(c).

7. Applications by Motion. Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed, via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

8. Oral Argument. If the Court believes that oral argument is necessary, the Court will schedule a hearing Pursuant to District of Delaware Local Rule 7.1.4.

9. Daubert Issues. The Court will address Daubert issues at the Pretrial Conference. Daubert issues are properly raised as a Motion *in Limine* (to be submitted in accordance with the Motion *in Limine* schedule) and will count toward the five (5) motions permitted per side.

10. Pretrial Conference. On June 22, 2009, beginning at 9:30 a.m., the Court will hold a Pretrial Conference in Chambers with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this court's website at www.ded.uscourts.gov. On April 30, 2009, the parties shall exchange their respective portions of the Pretrial Order. On May 22, 2009, the parties shall exchange objections to the other side's respective pretrial order submissions.

Motions in limine: No party shall file more than five (5) motions *in limine*. Briefs (**opening, answering and reply**) on all motions *in limine* shall be filed by May 26, 2009. Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages. The parties shall file with the Court the **joint** proposed final pretrial order with the information required by the form of Final Pretrial Order which can be located on this court's website at www.ded.uscourts.gov on or before the close of business on May 29, 2009.

11. Trial. This matter is scheduled for a five (5) day bench trial beginning at 9:00 a.m. on July 13, 2009.

12. Scheduling. The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel is on the line for purposes of selecting a new date.

UNITED STATES DISTRICT JUDGE

1512635.1